



# CITY OF TROUTDALE

"Gateway to the Columbia River Gorge"

Received & Inspected

July 12, 2011

JUL 18 2011

Ms. Marlene Dortch,  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street SW  
Washington DC 20554

FCC Mail Room

Mayor

Jim Kight

City Council

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City Manager

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City Attorney

David J. Ross

RE: *Acceleration of Broadband Deployment, WC Docket No. 11-59, comments of the City of Troutdale, Oregon*

Dear Ms. Dortch:

Troutdale, Oregon submits this letter in response to the Notice of Inquiry (Notice), released by the Federal Communications Commission (FCC) on April 7, 2011, in the above-referenced proceeding.

Incorporated in 1907, Troutdale grew like many towns around railroad and river transportation corridors. Today, Troutdale is a vigorous, thriving community and offers many scenic, natural, cultural, and recreational resources. With strong community alliances and abundant commercial and industrial property, Troutdale offers business assistance and opportunity. Troutdale's award winning downtown, new water pollution control facility, ample water supply, and excellent transportation network are very attractive to potential development. Troutdale serves as the eastern gateway to the Historic Columbia River Highway, the Mount Hood Scenic Byway, and the Columbia River Gorge. With a population of 15,595 and six square miles, visitors to Troutdale will find a small town atmosphere and a historic downtown with restaurants, two historic museums, and specialty shops.

The city is currently served by two broadband providers, Comcast and Frontier Communications (the successor to Verizon). Comcast's broadband service is available throughout the City and Frontier's broadband is deployed to the frontage of practically every residential property in Troutdale, with extension to commercial properties available upon request.

Troutdale's right-of-way management ordinance provides for the management of the public rights-of-way in the interest of public safety and convenience and for the protection of public infrastructure. In the ordinance's application, all utility permittees are welcomed equally and in a fair and reasonable manner. The City Code specifies the requirements for the provision of utility easements on all frontages of new development for the benefit of its utility providers and enforces those requirements consistently. The City, as a steward of the public rights of way, requires permits for facility installations in the right-of-way, which are processed in a consistent manner. Through thoughtful deliberation, the City does not at this time charge a permit application fee or a pavement disturbance fee to its utility companies, including broadband providers. All other permittees are charged a \$50 permit fee and a pavement disturbance fee. Additionally, in the case of the FiOS deployment project, the City staff

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devoted considerable amount of extraordinary time, energy and expense to accommodating Verizon (now Frontier) in its city-wide deployment of broadband a few years ago.

The City has not received any complaints from its broadband providers regarding our lawfully adopted public right-of-way way management and compensation strategies.

There are compelling reasons why the City manages the construction in and longer term use of its public rights-of-way. In brief, they include:

- To protect existing infrastructure and assets in the right-of-way;
- Maintain accountability of providers for their activities in the right-of-way;
- Provide a consistent method for communicating, assuring and enforcing standards of construction and conduct within the public rights-of-way;
- To protect private property owners from damage or disturbance to their property by utility providers and provide them due process for redress of grievances related to utility providers' construction activities; and
- To assure an orderly apportionment of physical space within the public rights-of-way for the various types of infrastructure (public and private) that are placed there.

In the City's experience, private utility providers have generally been responsible, appreciative, and responsive regarding the City's oversight and permitting process. It is the City's experience that in situations when oversight has been relaxed, the utility companies, and unfortunately, particularly the broadband providers, have quickly become lax in maintaining their standards of performance, conduct and responsiveness, and damage to infrastructure and public assets has resulted, in addition to poor responsiveness to property owner complaints, and failure to observe long-established City Code standards for construction.

We would be remiss if the City of Troutdale did not remind the Commission that compensation derived from the long-term use of the public right-of-way comprises a significant portion of the City's General Fund and it is the General Fund budget that most directly supports critical public services such as Fire and Police. Long-standing historical compensation laws exist and the City is and has always been in compliance. The loss of this revenue would severely hamper the City's ability to deliver critical services to its citizens.

The City of Troutdale would like to thank the Commission for its efforts to better understand the practices and policies surrounding cities' management of public rights of way. Troutdale strongly encourages the Commission to consider its comments, as well as those submitted by all cities, before taking any action that may adversely affect the public rights of way management authority of cities. Troutdale respectfully reminds the Commission that it must resist moving forward in any other context to act on any of the issues raised in the Notice until the record in this proceeding is complete.

Sincerely,

  
Mayor Jim Kight